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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/689,901

10/21/2003

David P. Yach

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07/14/2006

JOHN J. OSKOREP, ESQ.
ONE MAGNIFICENT MILE CENTER
980 N. MICHIGAN AVE.
SUITE 1400
CHICAGO, IL 60611

EXAMINER

WU, YICUN

ART UNIT

PAPER NUMBER

2165

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 2165

III. DETAILED ACTION

1. Claims 1,4-7,10-15 and 18-23 are presented for examination.

Claim Rejections - 35 USC 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.

2. Claims 1,4-7,10-15 and 18-23 are rejected under 35 U.S.C. 101 because the claims are directed to a non-statutory subject matter, specifically, the claims are not directed towards the final result that is “useful, tangible and concrete (See State Street, 149 F.3d at 1373-74 USPQ2d at 1601-02).

According to the New Guidelines of October 26, 2005, which states that “A claim limited to a machine or manufacture, which has a practical application, is statutory. In most cases a claim to a specific machine or manufacture will have a practical application. See Alappat, 33 F.3d at 1544, 31 USPQ2d at 1557)... a specific machine to produce a useful, concrete, and tangible result (State Street, 149 F.3d at 1373-74 USPQ2d at 1601-02).

Examiner requests Applicant to include in Applicant’s claimed limitations (in all the claims) the following:

Claim limitation describing --

1. *What is the practical application?*

Art Unit: 2165

2. What is final result which Applicant considers concrete, useful and tangible?

Because the “practical application, result, concrete, useful and tangible” limitations are not claimed in Applicant’s claims, Examiner asserts that the above listed claims are nonstatutory.

Other Prior Art Made of Record

3. The prior art made of record and not relied upon is considered pertinent to Applicant’s disclosure. U.S. patents and U.S. patent application publications will not be supplied with Office actions.

Examiners advises the Applicant that the cited U.S. patents and patent application publications are available for download via the Office’s PAIR. As an alternate source, all U.S. patents and patent application publications are available on the USPTO web site (www.uspto.gov <<http://www.uspto.gov>>), from the Office of Public Records and from commercial sources. For the use of the Office’s PAIR system, Applicants may refer to the Electronic Business Center (EBC) at <http://www.uspto.gov/ebc/index.html> or 1-866-217-9197.

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Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yicun Wu whose telephone number is 571-272-4087.

The examiner can normally be reached on 8:00 am to 4:30 pm, Monday -Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2100.


Yicun Wu
Patent Examiner
Technology Center 2100

June 19, 2006